

**REMARKS**

Reconsideration of the present application is respectfully requested. Claims 1 to 37 are currently pending, and no claims have been amended.

The Office Action mailed March 5, 2002 addressed Claims 1 to 37. Claims 1 to 37 were rejected.

Claims 1 to 14, 31 and 35 to 37 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 to 9 of U.S. Patent No. 6,213,895 in view of OFFICIAL NOTICE. The Examiner stated that although the conflicting claims are not identical, they are not patentably distinct from each other because the same subject matter is claimed except having one of the inner and outer cover layers and the single cover comprising polyurethane. The Examiner further stated that OFFICIAL NOTICE is taken that covers are conventionally made of ionomer resins due to their durability, abrasion resistance, and toughness, and polyurethanes also have abrasion resistance, toughness and durability properties. The Examiner concluded that it would have been obvious, in view of the OFFICIAL NOTICE, to have a polyurethane cover in order to give the golf ball similar properties that would have been imparted to it by a cover made of an ionomer resin.

Regarding the OFFICIAL NOTICE, Applicants respectfully traverse the statement that it would have been obvious to have a polyurethane cover in order to give the golf ball similar properties that would have been imparted to it by a cover made of an ionomer resin, and request evidence to prove this. Applicants respectfully submit that contrary to the Examiner's assertions, ionomers and polyurethane materials do not necessarily have the same properties.

Although Applicants respectfully disagree with the Examiner, in an effort to hasten prosecution, Applicants herein submit a Terminal Disclaimer which disclaims the terminal portion of any patent granting from the instant application, as required under MPEP § 1490. Applicants respectfully submit that this overcomes the rejection.

Claims 15 to 17, 19 and 35 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 to 17 of U.S. Patent

09/829,708

3

P-5686U1-C1

No. 6,245,859. The Examiner stated that although the conflicting claims are not identical, they are not patentably distinct from each other because the same subject matter is claimed except claiming the inner cover layer being softer than the outer cover layer. The Examiner concluded that it would have been obvious to one having ordinary skill in the art to have an inner cover layer softer than the outer cover layer in order to provide the desired toughness and overall hardness as a matter of routine optimization.

Although Applicants respectfully disagree with the Examiner, in an effort to hasten prosecution, Applicants herein submit a Terminal Disclaimer which disclaims the terminal portion of any patent granting from the instant application, as required under MPEP § 1490. Applicants respectfully submit that this overcomes the rejection.

Claims 18, 20, 21 and 22 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 to 17 of U.S. Patent No. 6,245,859 in view of Sullivan et al. (US 6,213,895). The Examiner stated that although the conflicting claims are not identical, they are not patentably distinct from each other because the same subject matter is claimed except having more than one core layer, the center component of the core being 0.500 to 1.250, the dual core having a diameter of 1.25 to 1.50, and the core having a density increasing agent which is foamed or reduced in density.

As previously stated, although Applicants respectfully disagree with the Examiner, in an effort to hasten prosecution, Applicants herein submit a Terminal Disclaimer which disclaims the terminal portion of any patent granting from the instant application, as required under MPEP § 1490. Applicants respectfully submit that this overcomes the rejection.

Claims 18, 20, 21 and 22 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 to 17 of U.S. Patent No. 6,245,859 in view of Sullivan et al. (US 6,224,498). The Examiner stated that although the conflicting claims are not identical, they are not patentably distinct from each other because the same subject matter is claimed except having an inner or outer cover layer having an ionomer resin greater than 16% weight.

09/829,708

4

P-5686U1-C1

As discussed above, although Applicants respectfully disagree with the Examiner, in an effort to hasten prosecution, Applicants herein submit a Terminal Disclaimer which disclaims the terminal portion of any patent granting from the instant application, as required under MPEP § 1490. Applicants respectfully submit that this overcomes the rejection.

Claims 23 and 24 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 to 17 of U.S. Patent No. 6,245,859 in view of Sullivan et al. (US 6,224,498). The Examiner stated that although the conflicting claims are not identical, they are not patentably distinct from each other because the same subject matter is claimed except having an inner or outer cover layer having an ionomer resin greater than 16% weight.

As previously discussed, although Applicants respectfully disagree with the Examiner, in an effort to hasten prosecution, Applicants herein submit a Terminal Disclaimer which disclaims the terminal portion of any patent granting from the instant application, as required under MPEP § 1490. Applicants respectfully submit that this overcomes the rejection.

Claims 24 to 30 and 34 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 to 11 of U.S. Patent No. 6,057,403. The Examiner stated that although the conflicting claims are not identical, they are not patentably distinct from each other because the same subject matter is claimed except U.S. 6,057,403 claims an inner and outer cover.

Although Applicants respectfully disagree with the Examiner, in an effort to hasten prosecution, Applicants herein submit a Terminal Disclaimer which disclaims the terminal portion of any patent granting from the instant application, as required under MPEP § 1490. Applicants respectfully submit that this overcomes the rejection.

Claim 32 was rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 15 and 16 of U.S. Patent No. 6,245,859 in view of Sullivan et al. (US 6,267,693). The Examiner stated that although the conflicting claims are not identical, they are not patentably distinct from

09/829,708

5

P-5686U1-C1

each other because the same subject matter is claimed except having an acrylic acid based ionomer resin.

As discussed above, although Applicants respectfully disagree with the Examiner, in an effort to hasten prosecution, Applicants herein submit a Terminal Disclaimer which disclaims the terminal portion of any patent granting from the instant application, as required under MPEP § 1490. Applicants respectfully submit that this overcomes the rejection.

Claim 33 was rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,213,895. The Examiner stated that although the conflicting claims are not identical, they are not patentably distinct from each other because the same subject matter is claimed except for the single cover hardness and having inner and outer cover layers.

As previously discussed, although Applicants respectfully disagree with the Examiner, in an effort to hasten prosecution, Applicants herein submit a Terminal Disclaimer which disclaims the terminal portion of any patent granting from the instant application, as required under MPEP § 1490. Applicants respectfully submit that this overcomes the rejection. Claim 33 was rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,245,859. The Examiner stated that although the conflicting claims are not identical, they are not patentably distinct from each other because the same subject matter is claimed except for the core having a Riehle compression of at least 75, a cover having a hardness of at least 65, and the core and center being thermoplastic.

As discussed above, although Applicants respectfully disagree with the Examiner, in an effort to hasten prosecution, Applicants herein submit a Terminal Disclaimer which disclaims the terminal portion of any patent granting from the instant application, as required under MPEP § 1490. Applicants respectfully submit that this overcomes the rejection.

The Examiner is invited to telephone Applicants' attorney if it is deemed that a telephone conversation will hasten prosecution of the application.

09/829,708

6

P-5686U1-C1

**CONCLUSION**

Applicant respectfully requests reconsideration and allowance of each of the presently rejected claims, claims 1 to 37. Applicant respectfully requests allowance of claims 1 to 37, the claims currently pending.

Respectfully submitted,

MICHAEL J. SULLIVAN ET AL.

Customer No. 24492  
Phone: (413) 322-2937

Date: June 3, 2002

By: Michelle Bugbee  
Michelle Bugbee, Reg. No. 42,370  
Spalding Sports Worldwide  
Attorney for Applicants  
425 Meadow Street  
P.O. Box 901  
Chicopee, MA 01021-0901

cc: Richard M. Klein, Esquire (SLD 2 0106-1)